

SFUND RECORDS CTR
52117

Alco Pacific Inc.
16914 South Broadway
Carson, California 90248

) U.S. EPA Docket No. 98-05
) UNILATERAL ADMINISTRATIVE
) ORDER FOR (PARTIAL)
) PERFORMANCE OF REMOVAL
) ACTION

Listed in Appendices C & D

Proceeding Under Section 106(a)
of the Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980
42 U.S.C. Section 9606(a).

This Unilateral Administrative Order ("Order") is issued on this date pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-8-A and 14-14-C. This authority has been

redelegated to the Director, Hazardous Waste Division, EPA, Region 9 ("Director") by Region 9 Delegations 1290.41 and 1290.42

II. PARTIES BOUND

1. This Order shall apply to and be binding upon Respondents (collectively "Respondents") and Respondents' heirs, receivers, trustees, successors and assigns. No change in ownership or operational status will alter Respondents obligations under this Order. Notwithstanding the terms of any contract or agreement, Respondents are responsible for compliance with this Order and for ensuring that their employees, contractors, and agents comply with this Order. Respondents shall provide a copy of this Order to all contractors, subcontractors, and consultants which are retained by Respondents to perform the work required by this Order, within five (5) days after the EPA approval of the work plan.

2. Respondents may not convey any title, easement, or other interest they may have, either individually or collectively, in any property comprising the Site, as the term "Site" is defined below, without a provision permitting the continuous implementation of the provisions of this Order. Any Respondent wishing to transfer any title, easement, or other interest it may have in any property comprising the Site shall provide a copy of this Order to any subsequent owners or

successors before any ownership rights are transferred. Any such Respondent shall advise U.S. EPA six (6) months in advance of any anticipated transfer of interest.

III. DEFINITIONS

3. Unless otherwise expressly provided herein or in the Definitions in Appendix A attached hereto, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in the Exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments & Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

"Unilateral Order" or "Order" shall mean this Unilateral Administrative Order, EPA docket number 98-05, and all exhibits attached hereto. In the event of a conflict between this Unilateral Order and any exhibit, this Unilateral Order shall control.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

"Response actions" shall be those specific work items each Respondent is required to perform at the Site pursuant to this Section IX of this Unilateral Order, and as set forth in the Action Memorandum, see Attachment B.

"Respondents" shall mean (see Appendices C & D) both individually and collectively.

"State" shall mean the State of California, and all of its political subdivisions, including the California Department of Toxic Substances Control ("DTSC").

"United States" shall mean the United States of America.

IV. FINDINGS OF FACT

4. The Alco Pacific facility is located at 16914 South Broadway, Carson, California, and is situated in a commercial and semi-industrial area northeast of the intersection of California Highway 91 and Interstate 110. The nearest residential neighborhood is located approximately 0.3 miles north of the Site. The concrete lined Dominguez Channel is located one mile southwest of the facility, and flows in southeast direction into Long Beach Harbor East Basin, which is eight miles from the Site.

Alco Pacific's primary operations consisted of the recovery, smelting, refinement, and resale of scrap lead, with the major source of these materials being used automobile batteries. In addition to the processed lead which was sold in ingot form, Alco made lead sailboat keel ballasts for several local sailboat manufacturers.

5. The Site is approximately one acre in size and is surrounded by a fence with a locked gate. The Alco facility includes two warehouses, both of which are approximately 3,100 square feet in size. Processing equipment on site includes a reverberatory furnace (12 feet in diameter), two baghouse systems, a battery shredder system, three refining pot furnaces, and three vertical storage tanks. The entire facility, with the exception of an area in the northwest corner, is covered with concrete pavement. The concrete is severely etched on the southern portion and there are lead waste materials scattered throughout the property.

6. Respondent Morris P. Kirk, (see Appendix C) a California resident, was the President of Alco Pacific Inc., and holds title to the property located at 16914 South Broadway, Carson, California. Mr. Kirk operated the Alco Pacific facility from approximately 1972 until 1989, when all operations ceased and the facility was abandoned.

7. Based on records covering the years from 1974 to 1989, which were taken from the Site by the California Department of

Toxic Substances Control ("DTSC") and used to create a waste-in volumetric database by EPA, each respondent identified in Appendix D arranged for the disposal, treatment, or arranged for the transportation to the Site for disposal or treatment of greater than four hundred (400) tons of hazardous waste to the Alco Pacific Inc. Site.

8. In 1993, DTSC funded a cleanup action to remove a lead-contaminated waste pile from the northwest corner of the Site property. The waste pile contained approximately 1,100 cubic yards of shredded polypropylene battery chips and other lead-related waste. In addition, approximately 100 cubic yards of foundry sand contaminated with lead was removed.

9. Besides the lead-related wastes and materials, low level radioactive furnace slag was stored at the facility from 1988 until 1997. The radioactive contamination resulted from an incident when a company shipped five drums of old density gauges as scrap lead to the Site. One such gauge contained a cesium-137 source, which when melted in the reverberatory furnace produced a radioactive slag. Upon discovery, the radioactive slag was removed and containerized into 52, 55-gallon drums. In July of 1997, under DTSC supervision, the drums were shipped to an authorized TSD facility for final disposal.

10. On June 19, 1997, representatives from DTSC conducted a site investigation which involved the collection of samples representative of the contamination on the paved surfaces and

processing equipment. Results from the sampling indicated that lead concentrations ranging from 520 to 450,000 mg/kg existed in the surface lead dust and debris deposited throughout the facility and in several slag piles inside and outside the furnace areas. Thirteen samples exceeded 1,000 mg/kg total lead concentration, which exceeds the California hazardous waste determination level. Levels of arsenic, copper, and zinc were detected between 1,500 mg/kg to 1,800 mg/kg. Levels of antimony were found as high as 8,800 mg/kg.

11. On July 15, 1997, EPA and its Superfund Technical Assistance Response Team ("START") contractor, at the request of DTSC, conducted a preliminary assessment at the Alco facility. EPA's assessment confirmed the waste disposal problems reported by DTSC. EPA's assessment revealed approximately two hundred (200) tons of lead contaminated waste including flue dust, furnace slag, and battery chips. Most of the lead contamination was deposited as a dust and debris layer on paved surfaces, slag materials inside and outside the rotary kiln and refining pot furnaces, sludges in the processing equipment, and flue dust inside towers, piping and baghouse facilities.

12. Due to the high concentrations of lead, arsenic, cadmium, antimony, copper, and zinc at the Site, there is a direct threat to the public health or welfare or the environment. These contaminants are exposed to wind dispersion and rainwater runoff. Because of the lack of physical barriers to prevent

exposure to winds and rain, and the large amount of dust contaminated with lead and other heavy metals that could be generated from work at the Site, a significant risk for human exposure to hazardous levels of these contaminants exists. Transients have been observed living on the Site and people living and working in the vicinity could be exposed to these contaminants by inhaling dust particulates or ingesting dust or dirt that contains lead or other heavy metals.

13. Lead, arsenic, cadmium, antimony, copper, and zinc are hazardous substance as defined in CERCLA Section 101 (14). Exposure to lead is particularly dangerous to a fetus, because of its great sensitivity during development. Exposure to lead is dangerous for young children because they ingest more lead than adults through normal mouthing activities and are more sensitive to its affects. Lead exposure may increase blood pressure in middle-aged men. At high levels of exposure, lead can severely damage the brain and kidneys in adults or children.

14. Arsenic is a known human carcinogen that may damage the developing fetus. In contact with the skin, arsenic can cause burning, itching, thickening and color changes. High or repeated exposure can damage nerves or cause damage to the liver, blood vessels, or red blood cells. Cadmium is a probable human carcinogen, a teratogen, and causes reproductive damage. High exposures can cause severe lung damage, emphysema, anemia, or loss of smell. Antimony can irritate the eyes, nose, throat, and

skin. High levels could cause antinomic poisoning, with symptoms of nausea, headaches, abdominal pain, and trouble with breathing. Copper and zinc, in dust or fumes, can be an inhalation hazard. Exposure to copper or zinc ladened dust or fumes can irritate the eyes, nose, and throat.

15. On February 11, 1998, EPA sent Notice of Federal Interest letters to the owner and operator of Alco Pacific and to approximately twenty six (26) generators who had sent waste to the Alco facility. EPA's letter requested that the recipients attend a meeting which was held in Long Beach, California on February 22, 1998. At this meeting, EPA outlined the relevant legal and technical issues as they pertained to the planned removal action. A PRP group was formed to determine if an agreement could be reached to complete a voluntary removal action at the Site. On March 17, 1998, pursuant to a request from the PRP Group, EPA sent additional Notice of Federal Letters to all generators who had contributed over four hundred (400) tons of lead or lead-related materials to the Site. Even with these additional PRPs, the PRP Group was unable to reach an agreement that would allow the Group to commence a voluntary removal action..

V. CONCLUSIONS OF LAW

16. The Alco Pacific Inc., Superfund site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

17. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601 (21);

18. Respondent Morris P. Kirk, at the time of disposal of hazardous substances at the Site, owned or operated the Site within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. Section 107(a)(2), or arranged for the disposal of hazardous substances at the Site within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. Section 9607(a)(3).

19. Each Respondent identified in Appendix D arranged for the disposal, treatment, or transportation of hazardous substances for disposal or treatment at the Alco Pacific Site, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. Section 9607(a)(3).

20. Respondents are each "liable parties" within the meaning of Section 107(a), 42 U.S.C. §9607(a), and are subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

21. Based on investigations performed to date, lead is present at the Site. Lead, arsenic, antimony, cadmium, copper and zinc are "hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

22. The past, present, or future migration of hazardous substances from the Site constitutes an imminent and substantial endangerment due to the actual or threatened "release" of hazardous substances, as the term "release" is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

VI. DETERMINATIONS

Based on the Findings of Fact and the Conclusions of Law, the Director of the Hazardous Waste Division, U.S. EPA Region IX, has made the following determinations:

23. That an actual or threatened release of hazardous substances from the Site/facility presents an imminent and substantial endangerment to the public health or welfare or the environment.

24. That conditions present at the Site/facility constitute a threat to public health or welfare or the environment based upon a consideration of the factors set forth in the NCP at 40 C.F.R. § 300.415(b), and that the actions required by this Order are necessary to protect the public health, welfare and the environment.

25. The actions required by this Order, if properly performed, will be deemed consistent with the National Contingency Plan, 40 C.F.R. Part 300 ("NCP"), and are appropriate to protect the public health or welfare or the environment.

VII. NOTICE TO THE STATE

26. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), U.S. EPA has notified the State of California of the issuance of this Order by providing the Department of Toxic Substances Control a copy of this Order.

VIII EFFECTIVE DATE

27. This Order is deemed effective three (3) days following the receipt of the Order by Respondents unless a conference is requested as provided herein. If such a conference is requested, this Order shall be effective the second (2nd) day following the day of such conference unless modified in writing by U.S. EPA.

IX. ORDER

Based on the Findings of Fact, Conclusions of Law, and Determinations, U.S. EPA hereby orders Respondents to perform the specific work set forth below under the direction of the U.S. EPA's On-Scene Coordinator, and to comply with all requirements of this Order:

A. Work and Deliverables:

28. Within fourteen (14) calendar days after the effective date of this Order, Respondents shall prepare and submit to the U.S. EPA for approval all work plan(s) and specification(s) for the removal activities required by this Order. The removal activities required by this Order include, but may not be limited to:

- a. providing 24-hour security at the Site which meets with EPA approval, including restricting access to the Site and prohibiting the removal of any materials, equipment, or any other item from the Site without prior EPA approval;
- b. controlling dust emissions to protect people from potential exposure during the removal action;
- c. performing air monitoring activities during the removal action, especially when there is a potential for airborne release of lead contaminants;
- d. removing large surface debris and trash in preparation of cleanup activities;
- e. inventorying and staging small containers and drums that are scattered throughout the Site;
- f. removing an estimated 200 tons of lead contaminated waste from in and around the processing equipment;
- g. performing a hazardous material survey of buildings and processing equipment prior to demolition activities;
- h. dismantling and demolishing lead processing equipment and buildings;
- i. decontaminating paved surfaces, equipment, and structures where necessary;
- j. maximizing the recycling of lead waste materials;
- k. cutting-up and hauling scrap metal to a recycling facility;
- l. transporting and disposing of all hazardous wastes at an EPA approved TSD facility;
- m. evaluate the need for the use of truck mounted HEPA vacuum unit to remove lead-contaminated dust and smaller debris from paved areas, baghouse systems and other areas where feasible.

29. In addition to the above, the Work Plan shall also include:

- a. a Health & Safety Plan prepared in accordance with EPA's Superfund Standard Operating Safety Guide, dated June 1992, and shall comply with all current Occupational Safety and Health Administration ("OSHA") regulations applicable to Hazardous Waste Operations and Emergency Response, 29 C.F.R. Part 1910. Respondents shall incorporate all changes to the health and safety plan recommended by EPA and implement the health and safety plan throughout the performance of the removal action; and
- b. a Quality Assurance Project Plan ("QAPP") that is consistent with the "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," EPA OSWER Directive 9360.4-01, dated April 1990. The Work plan shall be reviewed by U.S. EPA, which may approve, disapprove, require revisions, or modify the Work plan. Once approved, the Work plan shall be deemed to be incorporated into and made a fully enforceable part of this Order. The Respondents shall implement all work plan(s) as finally approved by the U.S. EPA.
- c. a schedule for completing removal activities, including site milestones for initiating and completing each major phase of the removal action.

30. Respondents shall notify the EPA Federal On-Scene Coordinator ("FOSC") at least forty-eight (48) hours prior to any visit or on-Site work. Respondents shall also notify the FOSC at least seventy-two (72) hours prior to the disposal of any wastes.

31. All documents, including technical reports, and other correspondence to be submitted by the Respondents pursuant to this Order, shall be sent to the following addressees or to such other addressees as U.S. EPA hereafter may designate in writing, and shall be deemed submitted on the date received by U.S. EPA:

Daniel Shane, Federal On-Scene Coordinator
Emergency Response Office, SFD-6

U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2286

John Jaros, Investigations & Enforcement
Emergency Response Office, SFD-6
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2316

Eric Hamrick
Ecology and Environment, Inc.
11 Golden Shores Drive
Long Beach, CA 90802
(562) 435-6188

Laurie Parnass, Project Manager
Department of Toxic Substances Control
1011 North Grandview
Glendale, CA 91201
(818) 551-2856

32. U.S. EPA shall review, comment, and approve or disapprove each plan, report, or other deliverable submitted by Respondents. All U.S. EPA comments on draft deliverables shall be incorporated by the Respondents. U.S. EPA shall notify the Respondents in writing of EPA's approval or disapproval of a final deliverable. In the event of any disapproval, U.S. EPA shall specify the reasons for such disapproval, U.S. EPA's required modifications, and a time frame for submission of the revised report, document, or deliverable. If the modified report, document or deliverable is again disapproved by U.S. EPA, U.S. EPA shall first notify the Respondents of its disapproval of the resubmitted report, document, or deliverable, and then may draft its own report, document or deliverable and incorporate it

as part of this Order. EPA may also seek penalties from the Respondents for failing to comply with this Order, or may conduct the remaining work required by this Order.

33. For purposes of this Order, U.S. EPA's authorized representatives shall include, but not be limited to, DTSC and all consultants and contractors hired by U.S. EPA to oversee activities required by this Order.

B. Selection of Contractor(s) and Subcontractor(s):

34. All work performed by or on behalf of Respondents pursuant to this Order shall be performed by qualified individuals or contractors with expertise in hazardous waste site investigation or remediation *and who are experienced in the proper handling of lead related materials*. Respondents shall, within seven (7) days after the Effective Date of this Order, notify U.S. EPA in writing of the name, title and qualifications of the individual(s) who will be responsible for carrying out the terms of this Order, and the name(s) of any contractor(s) or subcontractor(s). The qualifications of the persons, contractors, and subcontractors undertaking the work for Respondents shall be subject to U.S. EPA review and approval.

35. If U.S. EPA disapproves of any person's or contractor's technical or work-experience qualifications, U.S. EPA will notify the Respondents in writing. Respondents shall, within five days

(5) days of receipt of U.S. EPA's written notice, notify U.S. EPA of the identity and qualifications of the replacement(s). Should U.S. EPA disapprove of the proposed replacement(s), Respondents shall be deemed to have failed to comply with the Order.

36. Respondents may propose to change the individual(s), contractor(s), or subcontractor(s) retained to direct and supervise the work required by this Order. If Respondents wish to propose such a change, the Respondents shall notify EPA in writing of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by U.S. EPA in accordance with the terms of paragraphs 34 and 35 above. The naming of any replacement(s) by Respondents shall not extend any deadlines required by this Order nor relieve the Respondents of any of their obligations to perform the work required by this Order.

37. Respondents will notify U.S. EPA at least seven (7) days prior to the date of their initial mobilization to begin the removal action so that U.S. EPA may adequately schedule oversight tasks.

38. At least fourteen (14) days after the effective date of the Order, Respondents shall submit to U.S. EPA a certification that Respondents or their contractor(s) and subcontractor(s) have adequate insurance coverage or have indemnification for

liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of performance of the work required by this Order. Respondents shall ensure that the United States is named as an additional named insured on any such insurance policies.

C. General Provisions:

39. All work required by this Order shall be conducted in accordance with: the applicable portions of the EPA Action Memorandum, dated April 9, 1998 (attachment A); CERCLA; the NCP; U.S. EPA Region 9 "Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects" (EPA, November 1992); any final amended or superseding versions of such documents provided by U.S. EPA; other applicable U.S. EPA guidance documents; and any report, document or deliverable prepared by U.S. EPA because Respondents fail to comply with this Order.

40. All plans, schedules, and other reports that require U.S. EPA's approval and are required to be submitted by the Respondents pursuant to this Order and shall, upon approval by U.S. EPA, be incorporated into and enforceable under this Order.

41. U.S. EPA will oversee Respondents' activities as specified in Section 104(a)(1) of CERCLA Section, 42 U.S.C. §9604(a)(1). Respondents will support U.S. EPA's initiation and

implementation of activities needed to carry out its oversight responsibilities. Respondents shall also cooperate and coordinate the performance of all work required to be performed under this Order with all other work being performed at the site, including work performed by U.S. EPA, the State, another Respondent, or any other party performing work at the site with the approval of EPA.

42. Respondents shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided under CERCLA or unless the Respondents obtain a variance or exemption from the appropriate governmental authority.

43. Any hazardous substance removed off-site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and the EPA "Revised Procedures for Implementing Off-Site Response Actions," (OSWER Directive 98343.11, November 13, 1987).

X. NOTICE OF INTENT TO COMPLY

44. Respondents shall, within three (3) days of the Effective Date of this Order, provide written notice to U.S. EPA of Respondents' irrevocable intent to comply with this Order.

Failure to respond, or failure to agree to comply with this Order, shall be deemed a refusal to comply with this Order.

XI. OPPORTUNITY TO CONFER

45. Respondents may, within three (3) days of receipt of this Order, request a conference with the Chief of the *Emergency Response Office* in the Superfund Division, or whomever the Chief of the *Emergency Response Office* may designate. If requested, the conference shall occur within three (3) days of the request, unless extended by mutual agreement of the Parties, at U.S. EPA's Regional Office, 75 Hawthorne Street, San Francisco, California.

46. At any conference held pursuant to Respondents' request, the Respondents may appear in person, or be represented by an attorney or other representative. If Respondents desire such a conference, the Respondents shall contact Matt Strassberg, Assistant Regional Counsel, at (415) 744-1370.

47. The purpose and scope of any such conference held pursuant to this Order shall be limited to issues involving the implementation of the response actions required by this Order and the extent to which Respondents intend to comply with this Order. If such a conference is held, the Respondents may present any evidence, arguments or comment regarding this Order, its applicability, any factual determinations upon which the Order is based, the appropriateness of any action which the Respondents are ordered to take, or any other relevant and material issue.

Any such evidence, arguments or comments should be reduced to writing and submitted to U.S. EPA within three (3) days following the conference. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within three (3) days following the Effective Date of this Order. Any such writing should be directed to Matt Strassberg, Assistant Regional Counsel, at the address cited above.

48. Respondents are hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondents may be liable under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of those actions.

XII. ENDANGERMENT AND EMERGENCY RESPONSE

49. In the event of any action or occurrence during the performance of the work which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action(s) to

prevent, abate, or minimize the threat, and shall immediately notify U.S. EPA's FOSC, if the primary FOSC is unavailable, U.S. EPA's alternate FOSC, Richard Martyn can be contacted at (415) 744-2288. If neither of these persons is available, Respondents shall notify the U.S. EPA Emergency Response Unit, Region 9, phone number (415) 744-2000. Respondents shall take such action(s) in consultation with U.S. EPA's FOSC and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan.

50. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site.

XIII. MODIFICATION OF WORK REQUIRED

51. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the FOSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked no later than three (3) days of discovery of the unanticipated or changed circumstances.

52. The Director of the Superfund Division, U.S. EPA Region IX, may determine that in addition to tasks addressed

herein, additional work may be required to address the unanticipated or changed circumstances. Where consistent with Section 106(a) of CERCLA, the Director of the Superfund Division, U.S. EPA Region IX, may direct, as an amendment to this Order, that Respondents perform these response actions in addition to those required herein. Respondents shall implement the additional tasks which the Director of the Superfund Division, U.S. EPA Region IX, identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Director of the Superfund Division, U.S. EPA Region IX in any modifications to this Order.

XIV. DESIGNATED PROJECT MANAGERS

53. U.S. EPA designates Dan Shane, an employee of Region IX of U.S. EPA, as its primary FOSC and designated representative at the Site, who shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order or undertake any response actions (or portions of the response action) when conditions at the Site present or may present a threat to public health or welfare or the environment as set forth in the NCP. Within seven (7) days of the Effective Date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for overseeing Respondents' implementation of this Order. To the

maximum extent possible, all oral communications between Respondents and U.S. EPA concerning the activities performed pursuant to this Order shall be directed through U.S. EPA's OSC and Respondents' Project Coordinator. All documents, including progress and technical reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be delivered in accordance with Paragraphs 31-33 above.

54. U.S. EPA and Respondents may change their respective OSC and Project Coordinator. Notification of such a change shall be made by notifying the other party in writing at least five (5) days prior to the change, except in the case of an emergency, in which case notification shall be made orally followed by written notification as soon as possible.

55. The absence of the U.S. EPA OSC from the Site shall not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the U.S. EPA OSC under federal law.

XV. SITE ACCESS

56. Respondents shall permit U.S. EPA and its authorized representatives to have access at all times to the Site to monitor any activity conducted pursuant to this Order and to conduct such tests or investigations as U.S. EPA deems necessary. Nothing in this Order shall be deemed a limit upon U.S. EPA's authority under federal law to gain access to the Site.

57. To the extent that Respondents require access to land other than land they own in carrying out the terms of this Order, Respondents shall, within fifteen (15) days of the Effective Date of this Order, obtain access for U.S. EPA, its contractors, oversight officials, or other authorized representatives; state oversight officials and state contractors; and Respondents or their authorized representatives. If Respondents fail to gain access within fifteen (15) days, they shall continue to use best efforts to obtain access until access is granted. For purposes of this paragraph, "best efforts" includes but is not limited to, seeking judicial assistance, providing indemnification, and/or the payment of money as consideration for access. If access is not provided within the time referenced above, U.S. EPA may obtain access under Sections 104(e) or 106(a) of CERCLA.

XVI. REIMBURSEMENT OF OVERSIGHT COSTS

58. Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondents shall, within thirty (30) days of receipt of the bill, remit by cashiers or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Region 9, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Respondents shall send a cover letter with any check and the letter shall identify the Alco Pacific Inc., Site by name and make reference to this Order. Respondents shall send simultaneously to U.S. EPA's John Jaros notification of any amount paid, including a photocopy of the check.

59. Interest at the rate established under section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

XVII. DELAY IN PERFORMANCE

60. Any delay in performance of any requirement of this Order that, in the U.S. EPA's judgment, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other obligation of Respondents under the terms and conditions of this Order.

61. Respondents, as applicable, shall notify U.S. EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to U.S. EPA's primary OSC within twenty-four (24) hours after Respondents first knew or should have known that a delay might occur. The

Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying U.S. EPA by telephone, the Respondents shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why the Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

62. If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay. The submission of an extension request shall not itself affect or extend the time to perform any of Respondents' obligations under this Order.

63. If U.S. EPA determines that good cause exists for an extension of time, it may grant a request made by Respondents pursuant to paragraph 62 above, and specify in writing to the Respondents the new schedule for completion of the activity and/or submission of the document for which the extension was requested.

XVIII. RECORD PRESERVATION

64. Respondents shall maintain, during the pendency of this Order, and for a minimum of five (5) years after U.S. EPA provides notice to Respondents that the work has been completed, a depository of the records and documents required to be prepared under this Order. In addition, Respondents shall retain copies of the most recent version of all documents that relate to hazardous substances at the Site and that are in its possession or in the possession of its employees, agents, contractors, or attorneys. After this five-year period, Respondents shall notify U.S. EPA at least thirty (30) days before the documents are scheduled to be destroyed. If U.S. EPA so requests, Respondents shall provide these documents to U.S. EPA.

XIX. ENFORCEMENT AND RESERVATIONS

65. U.S. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. §9607, for recovery of any response costs incurred by the United States related to this Order and not reimbursed by Respondents. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support oversight costs, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. §9607.

66. Notwithstanding any other provision of this Order, at any time during the response action, U.S. EPA may perform its own studies, complete the response action (or any portion of this response action) and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.

67. Nothing in this Order shall preclude U.S. EPA from taking any additional enforcement action, including modification of this Order or issuance of additional Orders, or additional remedial or removal actions as U.S. EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9607(a), et seq., or any other applicable law. Respondents shall be liable under CERCLA Section 107(a), 42 U.S.C. §9607(a), for the costs of any such additional actions.

68. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, the Resource Conservation and Recovery Act, or any other applicable statutes or regulations.

69. Notwithstanding compliance with the terms of this Order, including the completion of an U.S. EPA-approved response actions, Respondents are not released from liability, if any, for any enforcement actions beyond the terms of this Order taken by U.S. EPA.

70. U.S. EPA reserves the right to take any enforcement action pursuant to CERCLA or any other legal authority, including the right to seek injunctive relief, monetary penalties, reimbursement of response costs, and punitive damages for any violation of law or this Order.

71. U.S. EPA expressly reserves all rights and defenses that it may have, including the U.S. EPA's right both to disapprove of work performed by Respondents and to request the Respondents perform tasks in addition to those detailed in this Order, as provided in Section VIII(a) (Work to be Performed) of this Order.

72. This Order does not release Respondents, individually or collectively, from any claim, cause of action or demand in law or equity, including, but not limited to, any claim, cause of action, or demand which lawfully may be asserted by representatives of the United States or the State of California.

73. No informal advice, guidance, suggestions, or comments by U.S. EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondents will be construed as relieving Respondents of their obligation to obtain such formal approval as may be required by this Order.

XX. SEVERABILITY

74. If any provision or authority of this Order or the application of this Order to any circumstance is held by a court

to be invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby, and the remainder of this Order shall remain in force.

XXI. DISCLAIMER

75. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither U.S. EPA nor the United States shall be held as a party to any contract entered into by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXII. PENALTIES FOR NONCOMPLIANCE

76. Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject Respondents to a civil penalty of up to \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject Respondents to liability for punitive damages in an

amount three times the amount of any cost incurred by the government as a result of the failure of Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XXIII. TERMINATION AND SATISFACTION

77. The provisions of this Order shall be deemed satisfied upon Respondents' receipt of written notice from U.S. EPA that Respondents have demonstrated, to the satisfaction of U.S. EPA, that all of the terms of this Order, including any additional tasks which U.S. EPA has determined to be necessary, have been completed.

IS SO ORDERED:

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

By:

Keith A. Takata
Keith A. Takata, Director
Superfund Division
Region 9

Date: 4-17-98

EPA Region 9 Contacts:

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On-Scene Coordinator
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Office of Regional Counsel, RC-3
U.S. EPA, Region 9
75 Hawthorne Street
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(415) 744-1370

Attachments: Appendix A, Definitions
 Appendix B, Action Memorandum
 Appendices C and D, Respondents

Appendix A

Additional Definitions

"Action Memorandum" shall mean the Action Memorandum concurred on by the State of California, issued by the United States Environmental Protection Agency on April 17, 1998.

"Construction" shall mean the Respondents', or their contractor's, installation/construction of the specific response actions each is required to perform, as set forth in exhibit A.

"Contractor" shall mean Respondents' contractor(s) and subcontractors contracted to perform the installation/construction, and operation and maintenance activities relating to any of the specific response actions at the Site Respondents are required to perform.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"Identified Contamination" shall mean any contamination, or threat of contamination, resulting from the release, or threat of release, of any hazardous substances, pollutants, contaminants, or solid waste identified in the administrative record for the Site as of the effective date of EPA's Action Memorandum for the Site, dated April 17, 1998, and other technical reports reflecting the results of all sampling activities conducted at the Site.

"Operation and Maintenance activities" shall include future operation and maintenance of all structures built or installed to contain the arsenic contamination at the Site until such time as EPA approves the cessation of such activities.

"Paragraph" shall mean a portion of this Unilateral Order identified by an Arabic numeral.

"Parties" shall mean the United States, and those parties set forth in Appendices C & D.

"Section" shall mean a portion of this Unilateral Order identified by a Roman numeral and including one or more paragraphs.

"Site" shall mean the Alco Pacific Superfund Site, located at 16914 South Broadway, Carson, California. The Site is approximately one acre in size, and is situated in a commercial and semi-industrial area northeast of the intersection of California Highway 91 and Interstate 110. The Site includes, but is not necessarily limited to, two warehouses, two baghouse systems, a reverberatory furnace, a battery shredder system, three refining pot furnaces, and three vertical storage tanks.

APPENDIX C-Owner Identity

Alco-Pacific Incorporated
Morris P. Kirk, President
30492 Marbella Vista
San Juan Capistrano, CA 92675

APPENDIX D

ALCO PACIFIC CURRENT PRP MAILING LIST

April 20, 1998

NAME	CONTACT	CURRENT ADDRESS
Alco Pacific	Morris P. Kirk	30492 Marbella Vista San Juan Capistrano, CA 92675
Lee's Wholesale	Lee Giberson	15232 Arrow Hwy. Baldwin Park, CA 92677
Jack Engle	Daniel Park	777 S. Figueron St. Ste. 400 LA, CA 90017
Ray's Auto	Ray Gardner	1351 N. Greenview Dr. La Habra, CA 90631
AA Battery		3190 Long Beach Blvd. Long Beach, CA 90807
Discount Auto	Richard Depifanio	3740 E. Florence Ave. Bell, CA 90201
Kinsbursky Bros.	Dan Gillespie	1314 N. Lemon St. Anaheim, CA 92801
Lucent Technologies	Marcella DePaulis	475 South St., 25-033 Morristown, NJ 07962
Alpert & Alpert	Michelle Leonard	1815 S. Soto St. Los Angeles, CA 90023
DJ Battery		16517 Lakewood Bellflower, CA 90706
GNB Inc.	Richard Thompson	7471 5 th Street Frisco, TX 75034
Industrial Battery	Derek Scoan	9121 Degarmo Ave. Sun Valley, CA 91352
Brown's Salvage		806 E. 60 th Street Los Angeles, CA 90001
D&M Metals	Doug Wulf	6405 Falling Trail Lane Alto Loma, CA 91701
Interstate Non-Ferrous	Robert Wilhelm	7100 Stanford Ave. Los Angeles, CA 90001